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**Attorneys for Defendant**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

-----X	
CHAMILIA, LLC,	:
	:
Plaintiff,	:
	:
-against-	:
	:
PANDORA JEWELRY, LLC,	:
	:
	:
Defendant.	:
-----X	

**Civil Action No.:**  
**04 CV 06017 (KMK)**

**ECF CASE**

**DECLARATION OF GIANFRANCO G. MITRIONE**  
**IN SUPPORT OF DEFENDANT'S MOTION TO STRIKE UNDER 56(e)**

GIANFRANCO G. MITRIONE, does hereby declare:

1. I am an associate with the firm of Lathrop & Gage L.C., attorneys for Defendant, Pandora Jewelry, LLC. I am admitted to practice law in the State of New York and in this District. I am familiar with all the facts and circumstances in this proceeding.
2. I submit this declaration pursuant to Rule 56(e) of the Federal Rules of Civil Procedure in support of defendant's motion to strike paragraph 4 of the Declaration of Jeffrey Julkowski, paragraph 3 of the Declaration of James G. Goggin, paragraph 2 the Supplemental

Declaration of James G. Goggin and the entirety of the Second Supplemental Declaration of James G. Goggin.

3. Attached hereto as Exhibit A are excerpts from the transcript of the deposition of Jeff Julkowski held on May 12, 2005.

I DECLARE under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
September 2, 2005

  
Gianfranco G. Mitrione

## **EXHIBIT A**

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
-----x

4 CHAMILIA, LLC,

5 Plaintiff,

6 v.

04-CV-6017  
(KMK)

7 PANDORA JEWELRY, LLC,  
8

9 Defendant.  
-----x

10  
11  
12 CONFIDENTIAL - ATTORNEYS EYES ONLY  
13

14 May 12, 2005

15 9:15 a.m.  
16

17 Videotaped deposition of JEFFREY  
18 JULKOWSKI, taken by Defendant, pursuant to  
19 notice, at the offices of Lathrop & Gage, 230  
20 Park Avenue, New York, NY 10169, before Lisa  
21 Mango, a Shorthand Reporter and Notary Public of  
22 the State of New York.  
23  
24  
25

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**REDACTED**

Q. What is your understanding of Chamilia's complaint against Pandora in this action?

A. My understanding is companies can compete. I don't go ship a UPS package and UPS isn't saying don't go ship with Fed Ex because they're shutting Fed Ex down. I don't go to buy a pair of Levi's jeans and Levi's doesn't say don't buy Diesel because we're going to shut them down.

No other companies I've dealt with have talked about the number one selling technique into scare customers that the other company is going to be put out of business.

Q. What is your understanding of the damage that Pandora has caused Chamilia as a result of these statements?

A. It's lost customers.

Q. Okay. Which customers has Chamilia lost as a result of statements made by Pandora?

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1  
2 A. We've gone over several of those  
3 customers today.

4 Q. In addition to those, what others?

5 A. I'd have to review. I don't know. We  
6 have to go back and look and see which customers  
7 we lost. Lisa knows quite a bit of customers  
8 that she lost.

9 Q. Other than the ones that we've  
10 discussed here today, what other customers have  
11 you lost as a result of Pandora's statements?

12 A. Quite a few.

13 Q. But as you sit here today, can you  
14 recall any other names?

15 A. I'd have to go back and look at all the  
16 details. We lose customers -- you don't know  
17 when you lose a customer all the time. How many  
18 customers are going to be told one thing and make  
19 a purchase decision to go elsewhere?

20 Q. What document are you going to go back  
21 and look at to determine what customers you lost?

22 A. Talk to our sales reps who know their  
23 accounts and have been told by them that we are  
24 no longer ordering from Chamilia. We won't order  
25 from Chamilia because they're going to be out of



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business.

Q. And what document would that be? Is there a document?

A. Sales reps, sales reps lost orders, sales reps canceled orders.

Q. Do you maintain a list of the customers that you lost as a result of actions or statements made by Pandora?

A. I know of the ones that I've had conversations with. And --

**REDACTED**